

PUBLIC ADVOCATES OFFICE

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE

SAN FRANCISCO, CA 94102-3298



June 22, 2021

Honorable Lisa Calderon
California State Assembly
State Capitol, Room 2137
Sacramento, CA 95814

Re: AB 1250 (Calderon) – Support If Amended

Dear Assemblymember Calderon:

The Public Advocates Office is the independent consumer advocate at the California Public Utilities Commission (CPUC). Our mission is to advocate for the lowest possible rates for customers of California's regulated utilities consistent with safe, reliable service levels and the state's environmental goals.

We support the intent of your bill to help ensure all Californians have access to safe drinking water. However, the bill, as amended on May 24, 2021, may have the unintended consequences of allowing investor-owned water utilities to place their business needs ahead of the public interest, in the form of increased customer monthly bills, without commensurate benefits.

The clear intent of AB 1250 is to assist small, troubled water systems by creating an expedited process for their acquisition by investor-owned water utilities. However, the provisions of AB 1250 are not limited to acquisitions of only small, troubled water systems. Rather, the expedited process outlined in AB 1250 could apply to any acquisition. To advance California's Human Right to Water, AB 1250 should be modified to provide an expedited acquisition process only for those small, troubled water systems as defined in the bill below.¹

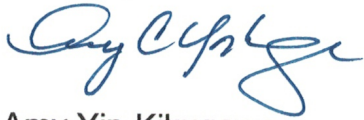
The State Water Resources Control Board estimates that one million Californians lack access to clean, safe, and affordable drinking water. The Public Advocates Office has supported the expedited acquisition and consolidation of small, troubled water systems that are unable to provide safe water at affordable rates. However, since 2000, less than 1% of the acquisition dollars spent by investor-owned water utilities have been for acquiring small, troubled systems.

¹ See attached for proposed modifications to AB 1250

As you know, consumers have limited capacity for rate increases. What capacity exists should be used to address small, troubled water systems where the public benefit can outweigh the cost. That is why AB 1250 should be amended to focus exclusively on California's small, troubled water systems, as suggested below. By making these minor changes, California will be better positioned to ensure all Californian's have access to safe drinking water without unnecessarily increasing customers' monthly bills.

We look forward to working with you on this legislation. If you have any questions or would like to discuss this matter further, please contact me at 415-703-5256 or at amy.yip-kikugawa@cpuc.ca.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Amy Yip-Kikugawa', written in a cursive style.

Amy Yip-Kikugawa
Acting Director
Public Advocates Office

Introduced by Assembly Member Calderon

February 19, 2021

An act to add Chapter 2.7 (commencing with Section 2721) to Part 2 of Division 1 of the Public Utilities Code, relating to public utilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 1250, as amended, Calderon. Water and sewer system corporations: consolidation of service.

The Public Utilities Act prohibits, with certain exemptions, any public utility from selling, leasing, assigning, mortgaging, or otherwise disposing of or encumbering specified property necessary or useful in the performance of the public utility's duties to the public without first, for qualified transactions valued above \$5,000,000, securing an order from the Public Utilities Commission authorizing it to do so or, for qualified transactions valued at \$5,000,000 or less, filing an advice letter and obtaining approval from the commission.

Existing law, the California Safe Drinking Water Act, provides for the operation of public water systems and imposes on the State Water Resources Control Board related regulatory responsibilities and duties. Existing law authorizes the state board to order consolidation of public water systems where a public water system or state small water system serving a disadvantaged community consistently fails to provide an adequate supply of safe drinking water, as provided.

This bill, the Consolidation for Safe Drinking Water Act of 2021, would authorize a water or sewer system corporation to file an application and obtain approval from the commission through an order authorizing the water or sewer system corporation to consolidate with a public water system or state small water system. The bill would require the commission to approve or deny the application within 8 months, except as provided. The bill would establish the Consolidation For Safe Drinking Water Fund, with all moneys available, upon appropriation, to the commission in order to process the applications and cover any associated regulatory costs. The bill would require a water or sewer system corporation to pay a fee of \$10,000 when filing an application pursuant to the above provision and would require the fee to be deposited into the fund.

For a consolidation valued at \$5,000,000 or less, the bill would authorize a water or sewer system corporation to instead file an advice letter and obtain approval from the commission through a resolution authorizing the water or sewer system corporation to consolidate with a public water system or state small water system. The bill would authorize the executive director of the commission or the director of the division of the commission having regulatory jurisdiction over the water or sewer system corporation to approve an uncontested advice letter, and would require the commission to approve or deny an advice letter within 120 days, except as provided.

BILL TEXT

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1.

(a) This act shall be known, and may be cited, as the Consolidation for Safe Drinking Water Act of 2021.

(b) The Legislature finds and declares all of the following:

(1) Several public water systems and state small water systems in the state remain out of compliance with water quality standards established for various contaminants.

(2) Operation of public water systems presents opportunities for scale economies that could be used to implement available technologies to comply with applicable water quality standards.

(3) Facilitating the consolidation of public water systems and state small water systems that consistently fail to provide an adequate supply of safe drinking water would help to achieve these scale economies to provide benefits to the residents of California.

(c) It is the intent of the Legislature to promote timely consolidation of water systems to provide an adequate supply of safe drinking water for all residents of California.

SEC. 2.

Chapter 2.7 (commencing with Section 2721) is added to Part 2 of Division 1 of the Public Utilities Code, to read:

CHAPTER 2.7. Consolidation for Safe Drinking Water Act of 2021

2721.

(a) For purposes of this section, the following terms have the following meanings:

(1) "Consolidate" means to join two or more public water systems, state small water systems, or affected residences not served by a public water system into a single public water system.

(2) "Public water system" has the same meaning as set forth in Section 116275 of the Health and Safety Code.

(3) "State small water system" has the same meaning as set forth in Section 116275 of the Health and Safety Code.

(b) (1) A water or sewer system corporation may file an application and obtain approval from the commission through an order authorizing that water or sewer system corporation to consolidate with a public water system or state small water system.

(2) The commission shall approve or deny an application filed pursuant to paragraph (1) within eight months of its filing, unless the commission makes a written determination that the deadline cannot be met, including findings as to the reason, and issues an order extending the deadline by up to four months. The commission may grant additional extensions of four months or less consistent with this paragraph.

(3) A water or sewer system corporation shall submit a fee of ten thousand dollars (\$10,000) when filing an application for authority to complete a consolidation made pursuant to paragraph (1).

(4) All moneys collected pursuant to paragraph (3) shall be deposited into the Consolidation For Safe Drinking Water Fund, established pursuant to Section 2722.

(c) (1) (A) For a consolidation valued at five million dollars (\$5,000,000) or less, a water or sewer system corporation may file an advice letter and obtain approval from the commission through a resolution authorizing that water or sewer system corporation to consolidate with a public water system or state small water system.

(B) If an advice letter filed pursuant to this paragraph is uncontested, approval may be given by the executive director or the director of the division of the commission having regulatory jurisdiction over the water or sewer system corporation.

(C) Absent incomplete documentation, the commission shall approve or deny the advice letter within 120 days of its filing by the applicant water or sewer system corporation unless the executive director makes a written determination that the deadline cannot be met, including findings as to the reason, and issues a response extending the deadline by up to 60 days. The executive director may grant additional extensions of 60 days or less consistent with this subparagraph.

(2) For a consolidation valued at five million dollars (\$5,000,000) or less, the commission may designate a different procedure if it determines that the consolidation warrants a more comprehensive review than the advice letter procedure described in paragraph (1) provides.

(d) **The commission's process pursuant to this section shall apply only to those** ~~For purposes of a consolidation pursuant to either subdivision (b) or (c), the commission shall prioritize~~ cases in which a water or sewer system corporation consolidates with a public water system or state small water system that is subject to a citation issued pursuant to Section 116650 of the Health and Safety Code or a compliance order issued pursuant to Section 116655 of the Health and Safety Code for failure to meet primary or secondary drinking water standards, as defined in Section 116275 of the Health and Safety Code.

(e) A water or sewer system corporation seeking to consolidate with a public water system or state small water system pursuant to this section shall give adequate public notice and provide adequate opportunities for public participation, as determined by the commission.

(f) This section does not require a public water system or state small water system that is not subject to the jurisdiction, control, and regulation of the commission to obtain authorization from the commission before consolidating with a public water system or state small water system.

2722.

The Consolidation For Safe Drinking Water Fund is hereby created. All moneys in the fund are available, upon appropriation by the Legislature, to the commission and shall be used only for the purpose of processing applications pursuant to subdivision (b) of Section 2721 along with any other associated regulatory costs.